

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 24-25, 28, 32, 34, 36-60, 70-80 are presently active in this case. The present Amendment amends Claims 24-25, 32, 36, 37, 43, 51, 55, 58, 60; cancels Claims 29-31, 33, 61-69; and adds Claims 75-80.

The outstanding Office Action rejected Claims 43 and 44 under 35 U.S.C. § 102(b) as anticipated by McKay (U.S. Patent No. 5,325,878). Claims 36-38 were rejected under 35 U.S.C. § 103(a) as unpatentable over McKay. Claims 24, 25, 28-34, 39-42, 47-51, 60, 61, and 66-69 were rejected under 35 U.S.C. § 103(a) as unpatentable over French Patent '805 in view of DE '273. Claim 42 was rejected under 35 U.S.C. § 103(a) as unpatentable over French Patent '805 in view of DE '273 further in view of Gueret (U.S. Patent No. 5,765,573). Claims 45, 46, 52-54 were rejected under 35 U.S.C. § 103(a) as unpatentable over French '805 in view of DE '273 further in view of Montgomery (U.S. Patent No. 3,763,870). Claims 55-59, 62-65, and 70-74 were rejected under 35 U.S.C. § 103(a) as unpatentable over French '805 in view of DE '273 further in view of Miraglia (U.S. Patent No. 5,709,230).

Initially, Applicant respectfully requests *that the references cited in the Information Disclosure Statements filed January 17, 2006 and January 3, 2006 be acknowledged as having been considered in the next Office Action.*

In response to the above rejections, the independent claims have been amended or canceled. Specifically, independent Claim 24 is amended to recite that an *inner edge* of each of the teeth of the first part *lies in a same plane* as an *inner edge* of each of the teeth of the second part, and that the teeth of the first part are *offset in a staggered configuration* relative to the teeth of the second part. Independent Claims 25, 36 and 55 are amended based on similar language. Claims 25 and 36 further require that the axis of the film hinge also lies in

the same plane as the edges of the teeth. Independent Claims 43, 58, 60 are amended to be dependent claims; and independent Claims 30-31 and 66-69 are cancelled. The changes to the claims find support in the disclosure as originally filed, for example at page 7, lines 1-7 with Fig. 4; and in original Claim 6. The new dependent Claims 75-79 find support in Fig. 4 and original Claim 8. New Claim 80 is also supported by the original disclosure, for example, at page 7, lines 26-31 and in the figures. Thus, the changes to the claims do not raise a question of new matter.<sup>1</sup>

In light of the present Amendment to the independent claims, the rejections are now moot and Applicant respectfully requests reconsideration of the outstanding rejections. The only reference applied for the limitation that the teeth are offset in a staggered configuration was DE '273. Specifically, in rejecting Claim 29, the Office Action asserted that "it would have been obvious ... to employ the offset teeth as taught by DE '273 into the FR '805 in order to improve the purpose of applying cosmetic to the eyelashes."<sup>2</sup> However, the offset teeth as taught by DE '273 do *not* have edges lying in a same plane. Thus, even if the offset teeth as taught by DE '273 were employed into the FR '805, one of ordinary skill in the art would not find it obvious to modify the DE '273 teeth so as to obtain the claimed comb.

With respect to Claim 80, the two parts of teeth which are assembled according to McKay are identical "halves" and not different in shape from each other. By contrast, Claim 80 requires that the two parts are different in shape from each other such that they are not mirror images of each other.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in

---

<sup>1</sup> See MPEP 2163.06 stating that "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

<sup>2</sup> See Office Action at page 4, lines 2-4 from the bottom.

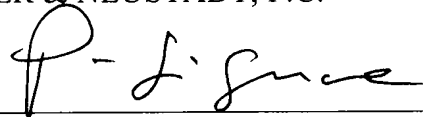
Application No. 09/787,409  
Reply to Office Action of February 27, 2008

condition for formal Allowance. A Notice of Allowance for Claims 24-25, 28, 32, 34, 36-60, 70-80 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



---

Steven P. Weihrouch  
Attorney of Record  
Registration No. 32,829

Philippe J.C. Signore, Ph.D.  
Registration No. 43,922

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)